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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,190	11/13/2001	Eric Cohen-Solal	US010548	3023

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

DESIRE, GREGORY M

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,190

Applicant(s)

COHEN-SOLAL ET AL.

Examiner

Gregory M. Desire

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5 and 8-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2, 5 and 8-14 is/are allowed.
- 6) ☒ Claim(s) 15,16,18 and 19 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communication filed 1/21/05.

Response to Amendment

2. The drawings were received on 1/19/05. These drawings are accepted. The examiner acknowledges the cancellation of claims 3-4 and 6-7.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 18 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 18 is drawn to functional descriptive material not claimed as residing on a computer readable medium. MPEP 2106.IV.B.1

(a) (Functional descriptive Material) states:

"Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer."

"Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. "

Claim 18, while defining software, does not define a "computer readable medium" and is thus non-statutory for that reason. Software can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The

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examiner suggests amending the claim to embody the program on "computer readable medium" in order to make the claim statutory.

"In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." MPEP 2106.IV.B.1 (a)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honey in view of Fleming, III (6,230,204).

Regarding system, software claims 15, 18 and 19 Honey discloses,

A processor having input that receives at least one video data stream of an event (note fig. 3 block 140 in connection with col. 4 lines 26-29 broadcast camera provides a data stream bc1 and fig. 4 block 200 processor receives video data stream output from the video controller via digital converter 212)

Identifying one or more regions of interest (ROIs) for the logo in one or more images comprising the at least one data stream (note col. 5 lines 2-15 and fig. 3 146,

148 and 150, the lines cite pan and tilt sensor identifying a field of view, which the examiner interpret as a region of interest, and col. 8 lines 36-39, target may be identified within a field of view and position determined and col. 3 lines 45-50, describes the target as advertisements the examiner interprets as logo).

Analyzing the one or more ROIs to detect if the logo is present in at least one of the ROIs (note col. 7 lines 61-65, processor analyze ROI (field of view) detecting if logo (target) is present; and

Honey does not disclose insuring that logo is broadcasted for a total period of time corresponding to advertisers prepaid advertising. However, Fleming discloses advertisers paying rates based on viewing time (note col. 1 lines 62-65). Therefore it would have been obvious to one having ordinary skills in the art at the time the invention was made to insure viewing time in the system of Honey. An efficient method of estimating usage activity would have been a desirable feature in the video broadcasting art to its production function and Fleming recognizes efficient estimation of usage activity would be expected when insuring viewing time to advertisers is included in Honey.

Regarding system claim 16 Honey and Fleming discloses,

Wherein the at least one video data stream comprises a single broadcast data stream (note Honey fig. 3 block 140 and col. 4 lines 26-30 broadcast camera outputs BC1, wherein BC1 is a data stream comprising a single broad cast).

Allowable Subject Matter

6. Claims 1-2, 5, 8-14 are allowed.
7. Applicant's arguments see page 9 lines 9-20, filed 1/19/05, with respect to claim 1 have been fully considered and are persuasive. The art rejection of claims 1-2, 5 and 8-14 has been withdrawn.
8. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

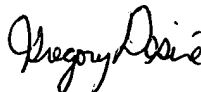
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory M. Desire whose telephone number is (571) 272-7449. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

✓ Gregory M. Desire
Examiner
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G.D.
June 6, 2005